

Message Text

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ACTION L-03

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FM AMEMBASSY KABUL

TO SECSTATE WASHDC 7352

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FOR L/PM

E. O. 11652: N/A

TAGS: PGOV, PFOR, AF

SUBJECT: CABINET TASK FORCE ON QUESTIONABLE PAYMENTS ABROAD:

FOREIGN LAWS ON QUESTIONABLE PAYMENTS

REF: (A) 75 STATE 258169 (B) 75 KABUL 7541 (C) STATE 94647

1. FOLLOWING IS KEYED TO PARAGRAPHS REFTEL C:

A. YES. AFGHAN LAW FOR THE PROSECUTION AND PUNISHMENT OF
BRIBERY (1973) PROVIDES CRIMINAL PENALTIES FOR INDIVIDUALS
CONVICTED OF OFFERING OR ACCEPTING BRIBES. DISCUSSION OF
LAW FOLLOWS BELOW.

B. NO. TO EMBASSY'S KNOWLEDGE THERE IS NO AFGHAN LAW RE-
QUIRING DISCLOSURE OF PAYMENTS MADE TO GOVERNMENT OFFICIALS.
HOWEVER, SUCH PAYMENTS ARE ILLEGAL UNDER PROVISIONS OF THE
LAW MENTIONED IN PARA A.

C. YES. LICENSING REGULATIONS FOR PRIVATE FOREIGN TRADERS
AND FIRMS IN AFGHANISTAN GOVERN THE OPERATIONS OF AGENTS.
DISCUSSION OF REGULATIONS FOLLOWS BELOW.

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D. NO. THERE IS NO PRACTICE, PER SE, OF POLITICAL CON-

TRIBUTIONS IN AFGHANISTAN.

E. NO

F. NO. EMBASSY NOT AWARE OF ANY AFGHAN LAWS GOVERNING COMMERCIAL TRANSACTIONS NOT INVOLVING GOVERNMENT OFFICIALS OR AGENCIES.

2. THE AFGHAN LAW FOR THE PROSECUTION AND PUNISHMENT OF BRIBERY (1973) SUPERSEDED AND STRENGTHENED EARLIER LAW AGAINST BRIBERY OF PUBLIC OFFICIALS "IN CHARGE OF THE PUBLIC SERVICES." INCLUDED IN THIS CATEGORY ARE CIVIL SERVANTS, JUDGES, MEMBERS OF THE GOVERNMENT, POLITICAL AND COMMERCIAL REPS OF AFGHANISTAN ABROAD, AND LAWYERS, WITNESSES, AND OTHER PERSONS WHO CERTIFY FACTS OR GIVE THE COURTS PROFESSIONAL ADVICE. THE PENALTY PROSCRIBED FOR BRIBERY IS THREE TO TEN YEARS IMPRISONMENT, THE SENTENCE BEING DETERMINED BY THE CIRCUMSTANCES. THE LAW ALSO PROVIDES THAT AN ATTEMPT AT GIVING OR RECEIVING A BRIBE SHALL BE CONSIDERED AS THE ACTUAL CRIME AND THAT THE "ILLEGITIMATE WEALTH" OF THE ACCUSED SHALL BE CONFISCATED. A COPY OF THIS LAW IS BEING AIR POUCED TO L/PM.

3. LICENSING REGULATIONS FOR PRIVATE FOREIGN TRADERS AND FIRMS, IN AFGHANISTAN WERE PROMULGATED IN 1965. THE REGULATIONS REQUIRE ALL FOREIGN TRADERS TO REGISTER AND OBTAIN A LICENSE FROM THE MINISTRY OF COMMERCE. THERE ARE NO SPECIFIC PROVISIONS IN THE LAW CONCERNING THE INVOLVEMENT OF AGENTS WITH THE HOST GOVERNMENT. HOWEVER, ARTICLE 35, REQUIRES "FOREIGN TRADERS ... TO OBSERVE ALL LAWS AND REGULATIONS IN FORCE IN AFGHANISTAN" AND PROHIBITS THEM FROM INTERFERRING, DIRECTLY OR INDIRECTLY, IN THE RELIGIOUS AND POLITICAL AFFAIRS OF AFGHANISTAN. ANY SUCH INTERREFERENCE, IN ADDITION TO LEGAL PENALTIES, WILL RESULT IN THEIR COMMERCIAL ACTIVITIES BEING TERMINATED AND THEIR EXPULSION (IF THEY ARE FOREIGNERS) FROM THE COUNTRY. COPY OF LICENSING REGULATIONS PREVIOUSLY AIR POUCED TO DEPARTMENT (L/PM) IN RESPONSE TO REF A.

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